



## TEXAS DEPARTMENT OF INSURANCE

### Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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## **MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION**

### **GENERAL INFORMATION**

**Requestor Name**

RIO OCCUPATIONAL INSTITUTE

**MFDR Tracking Number**

M4-17-3051-01

**Respondent Name**

TEXAS MUTUAL INSURANCE COMPANY

**MFDR Date Received**

June 16, 2017

**Carrier's Austin Representative**

Box Number 54

### **REQUESTOR'S POSITION SUMMARY**

**Requestor's Position Summary:** "Dr. Mario L. Vasquez-Aguilar is a Texas Star Network primary care/treating provider in both his McAllen office and his Rio Grande City Office. Please review the attached information and allow for services by the authorized network primary care provider."

**Amount in Dispute:** \$180.00

### **RESPONDENT'S POSITION SUMMARY**

**Respondent's Position Summary:** "Texas Mutual claim [claim #] is in the Texas Star Network... Texas Mutual reviewed its online Texas Star Network provider directory for the requestor's name and for its tax identification number, and found no evidence RIO OCCUPATIONAL INSTITUTE LL is a participant in that Network on 10/5/16. Network records indicate RIO OCCUPATIONAL INSTITUTE joined the Network 1/11/17... Because this fee reimbursement dispute involves a Network requirement under the Insurance Code and not the Labor Code, Texas Mutual argues DWC MDR has no jurisdiction in this matter. No payment is due."

**Response Submitted by:** Texas Mutual Insurance Company

### **SUMMARY OF FINDINGS**

Date(s) of Service	Disputed Service(s)	Amount In Dispute	Amount Due
October 5, 2016	99213 and 99080-73	\$180.00	\$0.00

### **FINDINGS AND DECISION**

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all-applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

**Background**

1. 28 Texas Administrative Code §133.305, sets out the procedures for resolving medical disputes.
2. 28 Texas Insurance Code Chapter 1305 applicable to Health Care Certified Networks.
3. 28 Texas Administrative Code §§10.120 through 10.122 address the submission of a complaint by a health care provider to the Health Care Network.

**Issue**

1. Did the requestor render services to an injured employee enrolled in a certified network?
2. Is this dispute eligible for medical fee dispute resolution pursuant to 28 Texas Administrative Code §133.307?

## **Findings**

1. The requestor filed this medical fee dispute for an in-network claim to the Division, requesting resolution pursuant to 28 Texas Administrative Code (TAC) §133.307 titled *MDR of Fee Disputes*. The insurance carrier indicates that the injured employee is enrolled in a certified healthcare network and that the requestor is not enrolled in the certified healthcare network.

The authority of the Division of Workers' Compensation to resolve matters involving employees enrolled in a certified health care network is limited to the conditions outlined in the applicable portions of the Texas Insurance Code (TIC), Chapter 1305 and limited application of Texas Labor Code statutes and rules, including 28 TAC §133.307. In particular, TIC §1305.153 (c) provides that "Out-of-network providers who provide care as described by Section 1305.006 shall be reimbursed as provided by the Texas Workers' Compensation Act and applicable rules of the commissioner of workers' compensation."

28 Texas Administrative Code §133.305 (a) (4) defines a medical fee dispute as "A dispute that involves an amount of payment for **non-network** health care rendered to an injured employee (employee) that has been determined to be medically necessary and appropriate for treatment of that employee's compensable injury. The dispute is resolved by the Division pursuant to Division rules, including §133.307 of this subchapter (relating to MDR of Fee Disputes)." Non-network health care is defined in Section (a) (6) of the same rule as "Health care not delivered, or arranged by a certified workers compensation health care network as defined in Insurance Code Chapter 1305 and related rules..."

Per 28 Texas Administrative Code §133.307 (a) (3) "...In resolving **non-network** disputes which are over the amount of payment due for health care determined to be medically necessary and appropriate for treatment of a compensable injury, the role of the Division of Workers' Compensation (Division) is to adjudicate the payment, given the relevant statutory provisions and Division rules."

The requestor submitted insufficient documentation to support that the disputed services rendered to an in-network injured employee were provided pursuant to TIC §1305.153. The Division finds that adjudicating the disputed service would involve enforcing a law, regulation, or other provision for the disputed service(s), provided to an in-network injured employee. As a result, the disputed services are not under the jurisdiction of the Division of Workers' Compensation and therefore, are not eligible for medical fee dispute resolution under 28 Texas Administrative Code §133.307.

2. The Division finds that the disputed services were rendered to an in-network injured employee. The TDI rules at 28 Texas Administrative Code §§10.120 through 10.122 address the submission of a complaint by a health care provider to the Health Care Network. The requestor may file a complaint with the TDI Complaint Resolution Process, if the health care provider or facility is dissatisfied with the outcome of the network complaint process. The complaint process outlined in Texas Insurance Code Subchapter I, §1305.401 - §1305.405 and may be the appropriate administrative remedy to address matters related to health care certified networks.

## **Conclusion**

The Division would like to emphasize that individual medical fee dispute outcomes rely upon the evidence presented by the requestor and respondent during dispute resolution. Even though all the evidence was not discussed, it was considered. The Division finds that this dispute is not under the jurisdiction of the Division of Workers' Compensation and is therefore, not eligible for medical fee dispute resolution under 28 Texas Administrative Code §133.307.

## ***DECISION***

Based upon the documentation submitted by the parties, the Division has determined that this dispute is not eligible for resolution pursuant to 28 Texas Administrative Code §133.307.

### **Authorized Signature**

_____	_____	July 6, 2017
Signature	Medical Fee Dispute Resolution Officer	Date

## ***YOUR RIGHT TO APPEAL***

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, effective May 31, 2012, *37 Texas Register 3833*, **applicable to disputes filed on or after June 1, 2012.**

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division, within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form, or to the field office handling the claim.

The party seeking review of the MDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision* together with any other required information specified in 28 Texas Administrative Code §141.1(d).**